

NEWS RELEASE



OFFICE OF THE UNITED STATES ATTORNEY SOUTHERN DISTRICT OF CALIFORNIA

San Diego, California

***United States Attorney
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For Immediate Release

PHYSICIAN SENTENCED TO PRISON IN MILLION DOLLAR POWER WHEELCHAIR SCAM

NEWS RELEASE SUMMARY - August 19, 2013

United States Attorney Laura E. Duffy announced that Irving J. Schwartz, M.D. was sentenced today to 5 months in prison, followed by 5 months in a half-way house, for his involvement in a scheme to defraud the Medicare trust fund by writing hundreds of false and fraudulent prescriptions for costly medical equipment that was not medically necessary. Dr. Schwartz was also ordered to pay restitution of \$593,429.81 to the Medicare trust fund, and to forfeit \$55,800 in kickbacks that he received for his role in the fraudulent scheme.

The Medicare program is a federally-funded health insurance program that provides health care services and equipment — including power wheelchairs to qualifying individuals who cannot walk without assistance. Prior to receiving this expensive equipment, however, a medical doctor must write a prescription certifying that the Medicare beneficiary has a medical need for the power wheelchair. In this case, Dr. Schwartz abused his position as a licensed physician by writing prescriptions for pricey medical equipment without any regard for the wants or needs of his patients.

The scheme focused on the sale of fraudulent power wheelchair prescriptions, with the end-goal being to obtain reimbursements from Medicare for power wheelchairs that patients did not need. Dr. Schwartz and a Co-conspirator named Gloria Hernandez would travel to El Centro, California in search of elderly Medicare patients. Schwartz would then write the patients prescriptions for power wheelchairs, even though the patients did not need the equipment and could walk without assistance. Schwartz collected a \$300 cash kickback in exchange for each power wheelchair prescription. Hernandez would then sell the power wheelchair prescriptions to a medical supply owner named Jose Melendez (another Co-Conspirator), charging him \$1,000 per fraudulent prescription.

Melendez, in turn, sold some of the power wheelchair prescriptions to other co-conspirators, charging an additional mark-up on each prescription. As the last step in the scheme, Melendez and the other co-conspirator owners of medical supply companies would submit the fraudulent prescriptions to Medicare for reimbursement, billing up to \$5,865 for each power wheelchair.

In his plea agreement, Dr. Schwartz admitted that he wrote at least 186 fraudulent power wheelchair prescriptions for Medicare beneficiaries in exchange for more than \$55,000 in bribes and kickbacks. Melendez, the owner and operator of Oceanside Medical Services, purchased these 186 fraudulent prescriptions and used them to submit over \$830,000 in false claims to Medicare. In a related case, co-conspirators Aristeo and Laura Tavares admitted to submitting more than \$250,000 in false claims, based on Dr. Schwartz's fraudulent prescriptions. In total, the scheme resulted in more than \$1 million in false claims to the Medicare trust fund.

During today's hearing, prosecutors described Dr. Schwartz's conduct as an egregious breach of trust and an abuse of his position as a medical doctor. In one case, Dr. Schwartz wrote two power wheelchair prescriptions for a husband and wife living in El Centro. Four years after Medicare paid for the expensive equipment, the power wheelchairs were still wrapped in the original plastic covering and sat unused in the couple's home – except during Christmas when one wheelchair was used as a Christmas tree stand. The husband and wife were both able to walk without difficulty, and they told federal agents that they never asked for the costly equipment, never needed it, and never used it. United States District Court Judge Marilyn L. Huff chastised Dr. Schwartz in open court, remarking that “he should have known better,”

and reminding Dr. Schwartz that these types of schemes take valuable government resources away from elderly patients who actually need expensive medical equipment.

United States Attorney Duffy said, “As a physician, Dr. Schwartz was licensed to operate in a system dependent on trust and honesty. He knew it was illegal to write false and fraudulent prescriptions, yet he purposefully engaged in criminal activity in order to line his own pockets at the expense of the Medicare program and the American taxpayer.”

DEFENDANTS

CRIMINAL CASE NO. 12cr2599-H

Irving Schwartz

SUMMARY OF CHARGES

Count 1: Conspiracy to Pay and Receive Health Care Kickbacks and Defraud -Title 18, United States Code, Section 371; Maximum Penalties: Five years in custody; \$250,000 fine; 3 year of supervised release; and mandatory restitution

INVESTIGATING AGENCIES

Federal Bureau of Investigation
Department of Health and Human Services, Office of Inspector General